

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ROY PRIDGEN	:	CIVIL ACTION
	:	
v.	:	
	:	
SUPERINTENDENT JOSEPH NISH,	:	
et al.	:	NO. 06-cv-02483-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

November 29, 2006

United States Magistrate Judge Charles B. Smith has filed a report recommending that this *habeas corpus* proceeding be dismissed because it is time-barred. I have carefully considered petitioner's objections to the report, and have carefully reviewed the entire record, and have concluded that Magistrate Smith's recommendation is clearly correct and should be adopted. I consider it unnecessary to repeat the facts of the case or the reasons for deeming it time-barred, since they are all set forth in the Magistrate's comprehensive report.

In addition to untimeliness, the petition would also be subject to dismissal on the merits: petitioner had at least partial sexual relations with the eight-year-old daughter of his girlfriend. He was sentenced pursuant to a negotiated plea of *nolo contendere*, which resulted in a reduced sentence (i.e., below what would otherwise have been a mandatory minimum sentence). In various statements to the police, and at the plea hearing, petitioner freely admitted his guilt, and detailed the events of the crime. Contrary to petitioner's assertions, the

additional medical evidence he now claims establishes innocence does nothing of the kind; it is entirely consistent with his own testimony at the sentencing hearing.

An Order follows.

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ORDER

AND NOW, this 29th day of November 2006, upon consideration of the Report and Recommendation of United States Magistrate Judge Charles B. Smith, and petitioner's objections thereto, IT IS ORDERED:

1. The Report and Recommendation are APPROVED and ADOPTED.
2. This action is DISMISSED with prejudice.
3. There is no basis for issuing a certificate of appealability.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.